

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
SECURITIES INVESTOR PROTECTION
CORPORATION,

12 Misc. 115 (JSR)

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

PERTAINS TO THE FOLLOWING CASE:

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

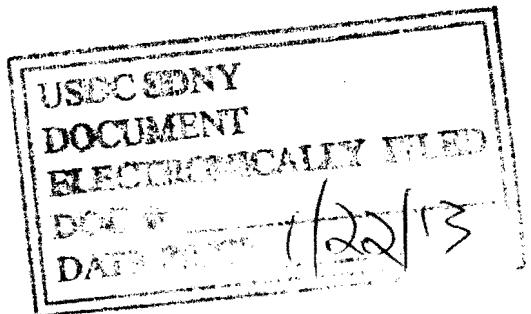
Adv. Pro. No. 11-02568 (BRL)

Plaintiff,

v.

CATHAY LIFE INSURANCE CO. LTD., and
CATHAY UNITED BANK LTD.,

Defendants.



STIPULATION AND ORDER

JED S. RAKOFF, U.S.D.J.

WHEREAS, Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* ("SIPA") and the estate of Bernard L. Madoff ("Madoff"), filed a complaint (the "Complaint") in the Bankruptcy Court in the above-captioned adversary proceeding on September 1, 2011;

WHEREAS, defendant Cathay United Bank Ltd. ("Cathay Bank") filed a notice of joinder to Cathay Life Insurance Co., Ltd.'s motion to withdraw the Bankruptcy Court reference ("Joinder") on March 29, 2012, arguing, *inter alia*, that issues related to (i) the safe harbor provision of section 546(e) of the Bankruptcy Code, (ii) the extraterritorial reach of section 550 of the Bankruptcy Code, (iii) the "good faith" standard applicable to a subsequent transferee under section 550 of the Bankruptcy Code, and (iv) *Stern v. Marshall*, 131 S. Ct. 2594 (2011), raised questions of non-bankruptcy law;

WHEREAS, in exchange for the Trustee's agreement to voluntarily dismiss the Complaint in the above-captioned adversary, Cathay Bank agrees to withdraw the Joinder and will not participate in the consolidated briefing on the merits of certain issues relating to (a) *Stern v. Marshall* pursuant to the Order dated April 13, 2012, No. 12 Civ. 0115 (S.D.N.Y. April 13, 2012) (ECF No. 4) (the "Stern Consolidated Briefing Order"); (b) 11 U.S.C. § 546(e) pursuant to the Order dated May 15, 2012, No. 12 Civ. 0115 (S.D.N.Y. May 16, 2012) (ECF No. 119) (the "Section 546(e) Consolidated Briefing Order"); (c) the extraterritoriality of SIPA and/or the Bankruptcy Code pursuant to the Order dated June 7, 2012, No. 12 Civ. 0115 (S.D.N.Y. June 6, 2012) (ECF No. 167) (the "Extraterritoriality Consolidated Briefing Order"); or (d) the "good faith" standard applicable to subsequent transferees under 11 U.S.C. § 550 pursuant to the Order dated June 23, 2012, No. 12 Civ. 0115 (S.D.N.Y. June 25, 2012) (ECF No. 197) (the "Good Faith Standard Consolidated Briefing Order");

WHEREAS, Cathay Bank has not answered the Trustee's Complaint and no other motions remain pending in either the Bankruptcy Court or the District Court; and

WHEREAS, on August 8, 2012, the Trustee voluntarily dismissed the Complaint in the above-captioned adversary proceeding solely with respect to Defendant Cathay Bank without

prejudice pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, as made applicable by Rule 7041 of the Federal Rules of Bankruptcy Procedure, by filing a Notice of Voluntary Dismissal Without Prejudice of Adversary Proceeding;

BASED ON THE FOREGOING, IT IS HEREBY:

ORDERED, that the Joinder is hereby withdrawn, and the Clerk of Court is ordered to close item number 3 in the docket 12 Civ. 3489 (JSR).

ORDERED, that Cathay Bank shall no longer be subject to the *Stern* Consolidated Briefing Order, the Section 546(e) Consolidated Briefing Order, the Extraterritoriality Consolidated Briefing Order, and the Good Faith Standard Consolidated Briefing Order, and Cathay Bank shall hereby be deemed removed from the relevant Exhibits to those orders.

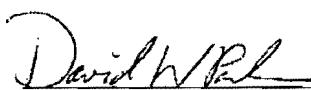
ORDERED, that all matters are deemed dismissed solely as to Cathay Bank pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

Dated: January 15, 2013
New York, New York



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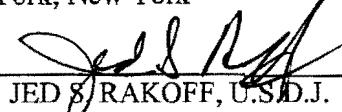
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Attorneys for Cathay United Bank Ltd.

SO ORDERED.

Dated: January 8, 2013
New York, New York



JED S. RAKOFF, U.S.D.J.